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| PRE-APPEAL BRIEF REQUEST FOR REVIEW | | Docket Number (Optional) P-3150-US | |
| I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] | | Application Number 09/863,423 | Filed 05/24/2006 |
| on _____ | | First Named Inventor Yaron Haviv | |
| Signature _____ | | Art Unit 2135 | Examiner HA, LEYNNA |
| Typed or printed name _____ | | | |
| Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request. | | | |
| This request is being filed with a notice of appeal. | | | |
| The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided. | | | |
| I am the | |  | |
| <input type="checkbox"/> | applicant/inventor. | Signature | |
| <input type="checkbox"/> | assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96) | Vladimir Sherman Typed or printed name | |
| <input checked="" type="checkbox"/> | attorney or agent of record. Registration number 43,116 | Telephone number | |
| <input type="checkbox"/> | attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____ | Feb 28, 2006 Date | |
| NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*. | | | |
| <input type="checkbox"/> *Total of _____ forms are submitted. | | | |

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Attorney Docket No.: P-3150-US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Yaron Haviv Examiner: HA, LEYNNA A
Serial No.: 09/863,423 Group Art Unit: 2135
Filed: 05/24/2001
Title: FILTERED APPLICATION-TO-APPLICATION COMMUNICATION

**ARGUMENTS IN SUPPORT OF
REQUEST FOR PRE-APPEAL BRIEF REVIEW**

Sir:

This communication is being filed in support of a request for a pre-appeal brief review, which request is being filed in conjunction with a Notice of Appeal in response to a Final Office Action in the above referenced application dated November 29, 2005.

The period to respond to the final office action was three months. Therefore, the Notice of Appeal, request for pre-appeal brief review and this communication are being timely filed.

SUMMARY OF ARGUMENTS

1. The Examiner refused to enter/consider amendments made to the claims in a supplemental amendment, asserting the claim amendments were not supported in the specification, and merely restated a set of 102/103 rejections from a First Office Action .
2. The claim amendments were fully supported in the specification, as further elaborated below.
3. The amended claims should have been entered/considered and are patentable over the cited prior art.

APPLICANT(S): Yaron Haviv
SERIAL NO.: 09/863,423
FILED: 05/24/2001
Page 2

CLAIM REJECTIONS

35 U.S.C. § 112 Rejections

In the Final Office Action, the Examiner rejected claims 1 through 20 under 35 U.S.C. § 112, first paragraph. The Examiner stated in the Office Action that claims 1 through 20 fail to comply with the written description requirement. The Examiner stated that the claims contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention.

The Examiner stated in the Office Action that claims 1, 8, 15 and 18 discloses new subject matter "the communication interface bypasses a substantial portion of the operating system kernel" and "bypassing a substantial portion of the operating system kernel". The Examiner had also stated that the discussion on pages 14 and 15 of the Application as filed fails to imply or explain the cited limitation.

Applicant respectfully disagrees with the Examiner's opinion and would like to kindly point out the following sections from the original Application:

- Page 7, 1st paragraph, line 3:

" It should be noted that communication hardware 106 may comprise a transport communication layer implemented in hardware and may have kernel-bypassing capabilities. Non-limiting examples of communication hardware 106 include new system area network (SAN) technology, for example virtual interfaces (VI), InfiniBand, Fiber-Channel, small computer system interface (SCSI), asynchronous transfer mode (ATM) and even modified Ethernet."
- Page 15, 3rd paragraph, line 12 :

APPLICANT(S): Yaron Haviv
SERIAL NO.: 09/863,423
FILED: 05/24/2001
Page 3

"All transactions and data transfer therefrom may flow directly between application 102A and application 102B without the need for kernel intervention."

- Page 15, 4th paragraph, line 15:

"Application 102A may issue a transaction from application 102B without kernel intervention (step 220)."

Applicant believes that the combination of the above cites, along with the drawings and various other portions of the specification provides a full and comprehensive explanation of the claim limitations which the Examiner asserted where unsupported. Furthermore, Applicant assert that to one of skilled in the relevant art it should be clear that the use of element 106 with "kernel bypassing capabilities" as described on page 7, enables a communication interface to bypass a substantial portion of the operating system kernel.

Accordingly, applicant kindly requests the Examiner withdraw the 112 rejections of claims 1, 8, 15 and 18.

35 U.S.C. § 102 and 103 Rejections

In the First Office Actions, the Examiner rejected claims 1-5, 8-12, 15 and 18 under 35 U.S.C. § 102(e), as being anticipated by Rothermal et al. (US 6,678,827). The Examiner also rejected claims 6-7, 13-14, 16-17 and 19-20 under 35 U.S.C. § 103(a), as being unpatentable over Rothermal et al. (US 6,678,827) and further in view of Bunton, et al. (US 6,690,757).

Neither of the cited references taught or suggested the invention as claimed in the claims as filed. However, Applicant made clarifying amendments in a supplemental amendment, not based on the prior art cited in the First Office Action, but rather as a gesture of cooperation following a personal interview with the Examiner, and in an effort to expedite the prosecution of the present application. The Examiner responded to the clarifying claim amendments with a Final Office Action in which the Examiner asserted that "applicant is noted that the new matter limitations of *the communication interface bypasses a substantial portion of the operating system kernel and by passing a substantial portion of the operating*

APPLICANT(S): Yaron Haviv
SERIAL NO.: 09/863,423
FILED: 05/24/2001
Page 4

system kernel have not been entered into consideration" because the Examiner could not find support for these limitations in the specification. As pointed out above, there is support for these limitations through the specification and drawings.

In contradistinction to what was and is claimed in all the independent claims of the present application, as filed and as amended, the Examiner's 102 reference (US 6,678,827) is directed to remotely managing one or more 'standalone', distributed, security entities (i.e., NSDs - "Network Security Devices"), which are located at different geographic locations. Nowhere in the '827 reference are the limitation of the independent claims taught or suggested. Each of the independent claims of the present invention is, therefore, considered allowable. (Further Elaboration is provided in the first and supplemental responses to the first office action)

By virtue of their dependence on claims consider allowable, dependent claims 2 through 7, 9 through 14, 16, 17, 19 and 20 should be also allowable.

In view of the foregoing remarks, all pending claims are considered allowable. Their favorable reconsideration and allowance is respectfully requested.

Respectfully submitted,



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Dated: February 28, 2006

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